

REMARKS

By this Amendment, claims 1-7, 14-15, 19-22, 26, 55-62, 66 and 68 are pending; all of the remaining pending claims have been amended following the Decision by the Board affirming the Examiner's prior rejections. Reconsideration is respectfully requested. By this statement Applicant incorporates by reference all of the arguments presented in the previously filed Appeal Brief and Reply Brief for this application and its related Appeal.

The Board, in its March 4, 2008 Decision, stated that the rebuttal comparative testing evidence falls far short of being commensurate in scope with the degree of protection sought by the appealed claims. The Board did, however, explicitly recognize that the unexpected superior results evidence did rebut the obviousness rejections for a copper range up to 50 g/L copper and a sulfuric acid range up to 100 g/L. Decision, p. 4. This rebuttal evidence overcomes the Reid references cited against the present claims.

Claims 1-5, 15, 55-62, and 66 have been amended according to the Decision recognized rebutted evidence ranges - specifically, up to 50 g/L copper and up to 100 g/L sulfuric acid. The lower value of the recited copper ranges, 35 g/L, of these claims is also supported by the comparative evidence in the original specification as follows:

- Comparative Example 2 – p. 23 (40 g/L Cu)
- Comparative Example 3 – p. 24 (35 g/L Cu)
- Comparative Example 4 - p. 25 and Fig. 2(f) (20-50 g/L Cu)
- Comparative Example 5 - pp. 25-26 (20 or 50 g/L Cu)
- Comparative Example 6 – p. 26 and Fig. 3(f) (20-50 g/L Cu)

Claim 6 recites the copper range supported by the comparative evidence as recognized in the Board's Decision (50 g/L copper and up to 100 g/L sulfuric acid, Decision, p. 4) and recites a sulfuric acid upper limit of 150 g/L as supported by the rebutting comparative evidence in the specification as follows:

- Comparative Example 4 - p. 25 and Fig. 2(f) (up to 150 g/L H₂SO₄)
- Comparative Example 5 - pp. 25-26 (150 g/L H₂SO₄)

- Comparative Example 6 – p. 26 and Fig. 3(f) (up to 150 g/L H₂SO₄)

Claims 26 and 68 recite a copper to sulfuric acid ratio of about 0.4 to about 0.7. This amended range is supported by the comparative evidence in the specification as recognized by the Board in its Decision as rebutting the *prima facie* case of obviousness, as follows:

- Comparative Example 3 – p. 25 (35 g/L Cu over 80 g/L sulfuric acid or 0.4 as the lower ratio limit claimed)
- Comparative Examples as shown in Fig. 2(f) (55 g/L Cu over 80 g/L sulfuric acid or 0.7 as the upper ratio limit claimed)

In addition to the above statements, based on the arguments set forth in the incorporated Appeal Brief and the claim amendments made in accordance with the Board's recognized rebutting evidence (comparative examples in the specification) as stated in the Decision, Applicant believes the claims are not obvious in view of the Reid references or in view of the Reid references combined with other art of record.

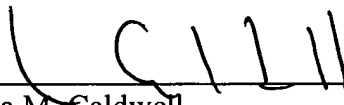
In regard to the Examiner's § 103 rejections using Gandikota as a primary reference, the Board found those rejections sustainable under the same rationale set forth above for Reid – that the comparative evidence allegedly didn't support the full scope of the claims prior to this Amendment. The Board noted that Gandikota disclosed a sulfuric acid concentration of about 4 g/L to 60 g/L and asserted that because the Applicant's claims recited the term "about 65 g/L", Gandikota was considered to make obvious the claimed lower limit of about 65 g/L. Accordingly, the claims have been amended to delete the term "about." In addition, the above outlined rebuttal evidence discussed in reference to the Reid obviousness rejections also apply to the Gandikota rejections.

Applicant believes the claims are now in condition for allowance and such notification is respectfully requested.

Respectfully submitted,

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